

City Council Introduction: **Monday, August 9, 1999**  
Public Hearing: **Monday, August 16, 1999, at 1:30 p.m.**

Bill No. 99-93

## **FACTSHEET**

**TITLE:** ANNEXATION NO. 99011, requested by the Interim Director of Planning, to annex the Lazy Acres subdivision and adjacent lots in the vicinity of South 14<sup>th</sup> Street and Mockingbird Lane North.

**STAFF RECOMMENDATION:** Approval.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 06/16/99 and 07/14/99  
Administrative Action: 07/14/99 and 07/28/99

**RECOMMENDATION:** Approval (7-0: Steward, Schwinn, Wilson, Krieser, Duvall, Wallace and Bayer voting 'yes'; Bleed and Hopkins absent).

### **FINDINGS OF FACT:**

1. The Planning staff recommendation to approve this annexation is based upon the "Analysis" as set forth on p.004-005, concluding that this annexation proposal is in conformance with the Comprehensive Plan. Specifically, it meets the annexation policies of the plan and is within the future service limit. This area is contiguous to the city and is generally urban in character. It is "urban" in character, meaning that it has more in common with the City of Lincoln than a rural area. The infrastructure and service issues regarding this property are adequately addressed. To serve individual lots, minor extensions of the sewer and water mains will be necessary. This area is appropriate for annexation.
2. The testimony in support is found on p.020; 023; and 027-028. Additional information provided by the staff is found on p.010-014. Cost estimates are found on p.014.
3. Testimony in opposition is found on p.020-021 and 025, and the record consists of three letters in opposition (p.015-019).
4. On July 14, 1999, a motion to approve failed 3-3 (Wallace, Krieser and Bleed voting 'yes'; Duvall, Steward and Bayer voting 'no'; Hopkins, Wilson and Schwinn absent). See Minutes, p.026-027.
5. On July 28, 1999, the Planning Commission voted 7-0 to recommend approval. See Minutes, p.027-028.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** August 2, 1999

**REVIEWED BY:** 

**DATE:** August 2, 1999

**REFERENCE NUMBER:** FS\CC\FSA99011/jlw

## **LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

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**P.A.S.:** Annexation 99011

**DATE:** May 28, 1999

**PROPOSAL:** Application by the Interim Director of Planning to the Lazy Acres subdivision and adjacent lots in the vicinity of S. 14th Street and Mockingbird Lane North.

### **GENERAL INFORMATION:**

**APPLICANT:** John L. Bradley, Interim Director of Planning  
555 S. 10th Street  
Lincoln, NE 68508  
(402) 441-7491

**CONTACT:** Stephen Henrichsen, AICP  
Planning Department  
(402) 441-6374

**LOCATION:** Generally located at S.14th Street and Mockingbird Lane North.

**REQUESTED ACTION:** Approval of annexation.

**LEGAL DESCRIPTION:** All of the lots and outlots in the Lazy Acres subdivision and Lots 14, 19, 20, 21, 57 and 58 Irregular Tract in the southeast quarter of Section 14, Township 9 North, Range 6 East; and Lots 6 and 7 Irregular Tract in the northeast quarter of Section 23, Township 9 North, Range 6 East; and adjacent road right-of-way, all located east of the 6th P.M., Lancaster County Nebraska.

**EXISTING ZONING:** R-1 Residential and AG Agricultural

**SIZE:** Approximately 45 acres, more or less.

**SURROUNDING LAND USE AND ZONING:** Densmore Park and future site for YMCA facility and City library zoned R-1 to the north; Lincoln Memorial Park Cemetery, to the east zoned AG and R-1; agricultural land zoned I-3 Employment Center owned by Lincoln Public Schools for a future high school site to the south; and Wilderness Park zoned 'P' Public to the west.

**COMPREHENSIVE PLAN SPECIFICATIONS:** IN CONFORMANCE. The 1994 Lincoln/Lancaster County Comprehensive Plan shows this land inside the Future Service Limit.

**SPECIFIC INFORMATION:**

**DESCRIPTION OF PROPERTY:** Most of the property is developed with single family homes on lots of ½ to 1 acre in size. To the west of Mockingbird Lane and the Lazy Acres subdivision is one single family home and five vacant lots all zoned R-1.

**UTILITIES & SERVICES:**

- A. **Sanitary Sewer:** The trunk line is already available to serve this property. Sewer line was installed as part of the original South Ridge Annexation Agreement. Minor extensions from the sewer trunk line would be necessary to serve these lots.
- B. **Water:** A 24 inch water main is in 14th Street, south of Pine Lake Road, to serve this property. Minor extensions from the water main would be necessary to serve these lots.
- C. **Roads:** S.14th Street is in the CIP for improvement to 4 lanes in the future.
- D. **Parks and Trails:** This annexation will not impact the Parks and Recreation Department. Densmore Park is adjacent to the north.
- E. **Fire Protection:** This area is currently served by the Southwest Rural Fire District. The City of Lincoln will have to pay for the cost of reimbursing the rural fire district after annexation. The City's fire station at 27<sup>th</sup> and Old Cheney Road will serve this property. The Lincoln Fire Department in the past has stated that their preference would be for the creation of a water assessment district to install water lines within the subdivision in order to better serve the fire protection needs of the area. Until the water mains and hydrants are installed within the subdivision, the Fire Department will have to contract with the Rural Water district for a tanker truck to serve these types of subdivisions. Properties along the S. 14<sup>th</sup> Street will be served from hydrants along the arterial street.
- F. **Schools:** A few lots are in the Lincoln Public School district. The remaining lots are in the Rokeby School District. Upon annexation, these lots would transfer to the Lincoln Public School (LPS) District. Property owners would no longer pay the other district's general levy and would instead pay the LPS general levy. However, according to state statutes, any property that was in a school district at the time of a bond election, must continue to pay that district's bond until it is retired, even if that property transfers to another district. Thus, those properties in the Rokeby district would still be subject to any previous Rokeby school bonds.

The City of Lincoln and Lincoln Public Schools have approved an agreement that provides that any area annexed by the City of Lincoln would not have to pay for existing LPS school bonds while it still has to pay for the school bond of another school district. All property annexed will be subject to all future bonded indebtedness of LPS that are approved after the date of annexation.

**ANALYSIS:**

1. This proposal is in conformance with the annexation policies on page 191 of the Plan, specifically the policies that state:
  - Land which is remote from the limits of the City of Lincoln will not be annexed; land which is contiguous and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.
  - Annexation generally implies the opportunity to access all City services (i.e., police, fire). Voluntary annexation agreements may limit or outline the phasing, timing or development of utility services (i.e., water, sewer) and may include specific or general plans for the financing of improvements to the infrastructure and the land uses of the area.
  - Plans for the provision of services within the areas considered for annexation should be carefully coordinated with the Capital Improvements Program (CIP) of the city and the county."
2. These properties meet the Comprehensive Plan's policy for annexation since they are:
  - a) generally developed,
  - b) urban in character,
  - c) contiguous to the city limits,
  - d) generally has city utilities available or planned for in the Plan and CIP.

These lots are nearly surrounded by the city limits on all sides. These lots are urban in character in that they pertain more to the urban area, Lincoln, than they do a rural area.

3. On May 17th, the City Council approved a report from the Planning Department proposing nine areas for annexation. This property is one of those nine areas.

On May 18<sup>th</sup> the Planning Department mailed all the property owners a seven page letter with answers to common questions about annexation and a map of the annexation proposal. On June 2<sup>nd</sup> city staff will hold an open house at Cavett Elementary School with property owners to further answer questions relating to the proposed annexation.

4. The Health Department and Public Works and Utilities recommend approval of the annexation. The Lincoln Police Department has no objections to the annexation.
5. This area was first recommended for annexation in October 1995. The proposal was held until the water main in S. 14<sup>th</sup> Street was constructed. That main is in place.

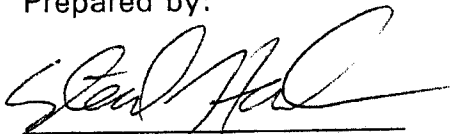
**CONCLUSION:**

This annexation proposal is in conformance with the Comprehensive Plan. Specifically it meets the annexation policies of the plan and is within the future service limit. This area is contiguous to the city and is generally urban in character. It is "urban" in character, meaning that it has more in common with the City of Lincoln than a rural area. The infrastructure and service issues regarding this property are adequately addressed. To serve individual lots, minor extensions of the sewer and water mains will be necessary. This area is appropriate for annexation.

**STAFF RECOMMENDATION:**

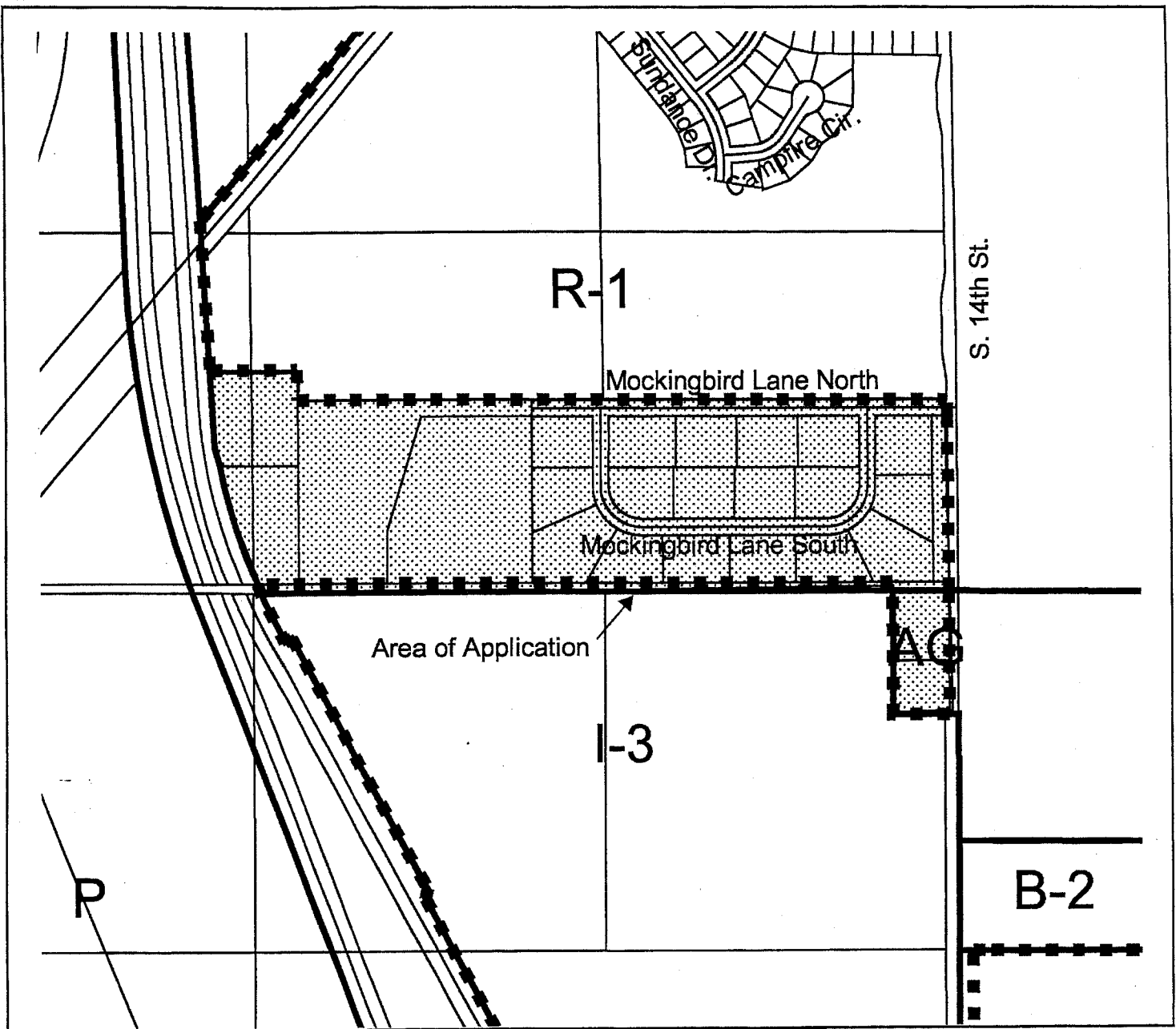
Approval of the Annexation

Prepared by:



Stephen Henrichsen, AICP  
Planning Department

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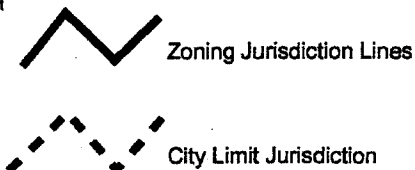


# **Annexation #990011** **Lazy Acres Annexation** **14th & Mockingbird Lane North**

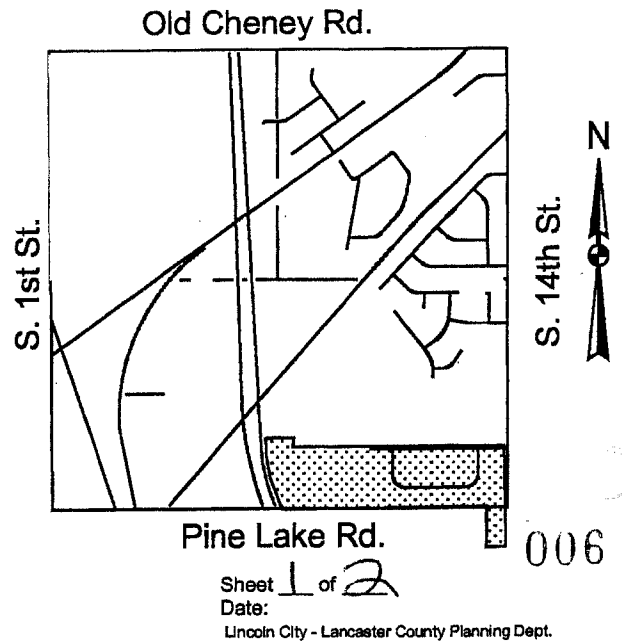
## **Zoning:**

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
 Sec. 14 T9N R6E

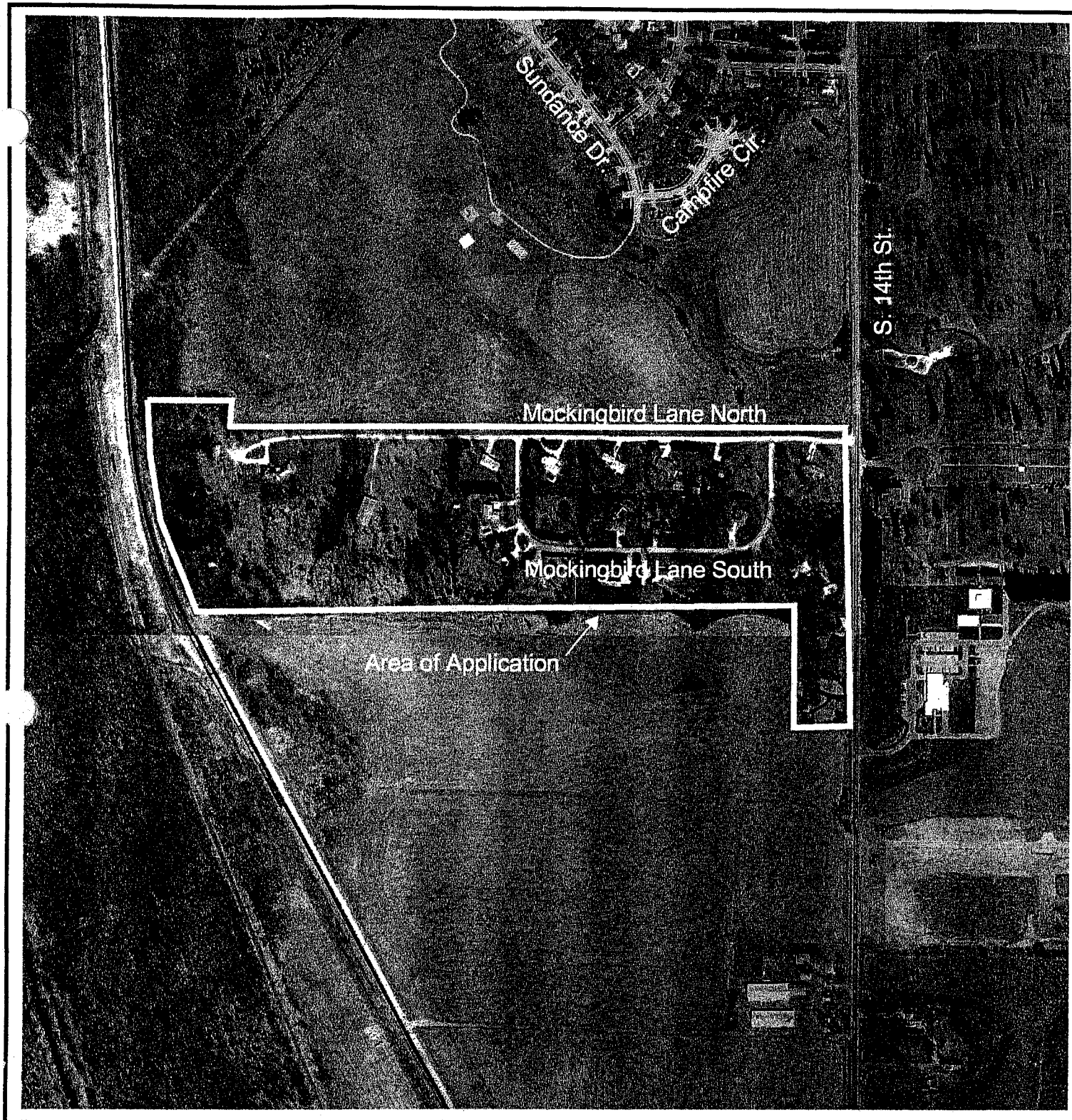


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Sheet 1 of 2  
 Date:  
 Lincoln City - Lancaster County Planning Dept.

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**Annexation #990011**  
**Lazy Acres Annexation**  
**14th & Mockingbird Lane North**



Sheet 2 of 2

Date: \_\_\_\_\_

Photograph Date: 1997 007

Lincoln City - Lancaster County Planning Dept.

# Memorandum

MAY 18 1999

PLANNING DEPT.

**To:** John Bradley, Planning Department  
**From:** Dennis Bartels, Public Works and Utilities Department  
**Subject:** Proposed Annexations

**Date:** May 17, 1999

**cc:** Dick Erixson, Roger Figard, Rick Haden, Steve Masters, Bruce Michaelson

The City Engineer's Office of the Public Works Department has reviewed the annexations proposed by Planning and has the following comments:

1. Annexation 99010 - Area east of 56th north and south of Pine Lake Rd. - This area can be served by existing water mains in 56th and 70th. Extension of Beals Slough trunk sewer will be required. Previous discussions have been to extend the trunk to Pine Lake Rd. With the proposed annexation approximately 1/4 mile south of Pine Lake, the trunk sewer extension should be considered to the south of Pine Lake to a point where the natural drainage from the northeast outlet to Beals Slough.
2. Annexation 99009 - Southeast corner 84th and Adams (North 40 Golf Course) - This area can be served by extensions of existing sewer and water mains in the vicinity.
3. Annexation 99011 - S. 14th and Mockingbird Lane - This area can be served by extension from existing sewer and water.

fc00709.DDB



MAY 4 1999

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT  
INTER-OFFICE COMMUNICATION**

**MEMO TO:** Stephen Henrichsen  
**DEPARTMENT:** Planning  
**ATTENTION:**  
**CARBONS TO:** Administration  
EH File

**DATE:** Apr 30, 1999  
**FROM:** John E. Miner  
**DEPARTMENT:** Health  
**SUBJECT:** Annex #99011  
Mockingbird Lane N.

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed annexation of 47 acres south of Mockingbird Lane North and west of 14th Street.

**Recommendations**

LLCHD recommends approval of the proposed annexation #99011.

## MEMORANDUM

TO Planning Commission

DATE June 8, 1999

FROM Stephen Henrichsen, Planning *SH*

SUBJECT Annexations: Fire Department Response

COPIES TO John Bradley  
Chief Spadt & John Huff, Fire Department

Attached are two memos from the Fire Department in regards to the proposed annexations on the June 16<sup>th</sup> Planning Commission agenda. In summary, the Fire Department recommends that fire hydrants should be located to serve each area per the design standards for subdivision. For the proposed annexations of property along major arterial streets this would mean the installation of hydrants along existing water mains.

For areas on local streets this would require the installation of water mains in the local streets. This would impact Annexation #99011 for the homes on Mockingbird Lane South and North, and Annexation #99010 for the few homes on S. 59<sup>th</sup> Street Circle,

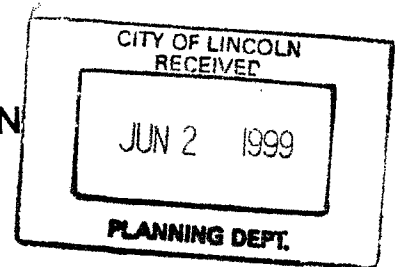
In the past, the Fire Department has noted three options for providing fire protection:

- Option 1 Install water lines in local streets by assessment district. This provides both water service and fire hydrants per city standards. The Lincoln Fire Department has consistently recommended this option.
- Option 2 Contract with the local rural fire districts to provide tanker water in the event of a fire. This option provides a lesser level of service and does not provide a long term solution for this area if it is in the city. This is also a problem if the rural fire district tanker is not available when called.
- Option 3 The City of Lincoln can purchase a tanker truck to bring water to the site. This type of truck could cost \$60,000 to \$120,000. If it is needed in just one area, it could be housed out of a nearby station. However, the City currently does not have a facility capable of housing or staffing a water tanker. Having one truck could also pose a problem if that truck had maintenance problems or if annexation sites were spread throughout Lincoln, then multiple trucks might have to be purchased.

It is possible that for a number of years the area could be served by a contract with the rural fire district, until an assessment district was created. Assessment districts are typically paid by homeowners over a 20 year period.

The Fire Department also notes that with several annexations and growth in southeast Lincoln there is a growing need for the future fire station at approximately 66<sup>th</sup> and Pioneers Boulevard which would better serve this area.

**INTER-DEPARTMENT COMMUNICATION**  
**Lincoln Fire Department**



<b>TO</b>	Steve Henrichsen	<b>DATE</b>	June 1, 1999
<b>DEPARTMENT</b>	Planning	<b>FROM</b>	DC Huff <i>DC</i>
<b>COPIES TO</b>	File	<b>DEPARTMENT</b>	LFD
		<b>SUBJECT</b>	Annexation #99010, #99011, #99012, #99013 Potential Annexations

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I reviewed the proposed annexation area and would recommend that fire hydrants should be located as per the design standards for subdivision requirement. This should be a condition of annexation to assure there is adequate water in the event of a fire incident in this subdivision.

Currently fire units from stations 4, 6, 7, 9 and 12 respond to this area for fire calls, Station 6 or 12 respond for medical emergencies. Although first arriving unit response capability is adequate, fire alarm response time continues to deteriorate as the city grows to the southeast for units other than the first arriving company. In order to continue to maintain the current response time, the addition of a fire station may need to be considered to provide services in this general area. If you have any questions, please feel free to contact me.

MEMORANDUM

TO Planning Commission

DATE July 14, 1999

FROM Stephen Henrichsen, Planning 

SUBJECT Annexation #99011: Questions on Lazy Acres

COPIES TO John Bradley  
Rick Peo, City Attorney  
Dennis Bartels, Public Works & Utilities  
Chief Spadt & John Huff, Fire Department  
Keith & Corene Herbster, 1202 North Mockingbird Lane, 68512-2352

On May 18<sup>th</sup> the Planning Department sent a seven page letter to all residents in Lazy Acres explaining many common questions about annexation. In addition, residents were invited to an open house on June 2<sup>nd</sup> in which staff was on hand to further answer questions about annexation. There are many questions that arise from annexation, and a majority can be answered in advance. However, there are a few questions such as the cost of sewer or water service that simply can't be answered at this time since there are too many factors involved.

After consulting with city staff, the following is in reply to the July 9<sup>th</sup> letter from Keith & Corene Herbster asked several questions about the potential annexation of Lazy Acres:

**City Utilities:**

1. City staff is correct in stating the city utilities are generally available in this area. A sanitary sewer trunk line is in place to the west and a 24 inch water main is in S. 14<sup>th</sup> Street to the east. Smaller water line extensions are necessary to serve individual houses.
2. The residents have requested a cost estimate to install the smaller water and sewer lines. There are too many variables to provide a cost estimate to install the individual lines. The costs depend on the length, how many residences would be served and what improvements are installed to serve the YMCA and the potential high school site to the south. For example, if the high school constructed a sewer near the subdivision, the cost to serve Lazy Acres would be substantially less than if a line would be built from the railroad tracks.
3. It is important to note that the City is not proposing any water or sewer improvements as a result of annexation. It could be months, one year, or numerous years until a property owner requested a sewer or water district to install the utilities.
4. The residents are not being denied utility service. If, after annexation, a resident desires to connect to sewer or water service, they will have the right to request an improvement district or connection if the service is already available.

5. Per city policy, a Sanitary Improvement District (SID) is not an option for installing utilities in Lazy Acres with or without annexation. Residents may be confusing an SID with an city improvement district for sewer or. A SID creates a separate authority to install improvements. An improvement district is a City process for installing improvements and then assessing those costs to benefitting property owners over a period of time.

**Fire Service:**

6. Currently this area is served by the Southwest Rural Fire District. The City of Lincoln Fire Department will serve this area after annexation. The fire call that was mentioned in the letter, occurred while this property was being served by the rural district. According to the records of the Lincoln Fire Dept., the City responded to the fire call in about 5 minutes after receiving a mutual aid call from the Rural Fire District. It appears that the Rural Fire District didn't call the Lincoln Fire Dept. until 10 minutes after receiving the call from the resident.
7. Lincoln Fire service is a tremendous improvement in service to the residents of this potential annexation. As pointed out in the letter, rural fire districts can average 15 minutes or more in response time, while the Lincoln Fire Department's average response time is approximately 5 minutes. Every minute is valuable in an emergency. To state that this, or any other annexation, is without benefit is incorrect and does not account for the increased fire protection and potential life, safety and property protection.

**Roads:**

8. Residents in Lazy Acres will be served to the exact same standard as any other resident of Lincoln on gravel road. Residents of Lincoln who live on roads that don't meet city standards, receive snow removal service. In addition, Public Works will maintain a gravel road and correct potholes by grading the road and spread gravel if the residents pay for the gravel. According to Public Works, gravel is occasionally spread at city expense as well if funding is available.
9. The City is liable to reasonably maintain the roads in a safe condition. Liability issues are the same as for any other gravel road in the city as well.
10. In the City of Lincoln, utilities are typically placed in the city right-of-way (ROW) or utility easements. City water and sewer lines typically occupy the ROW, though depending on the circumstances, additional easements may be obtained if needed.. Particularly for the city's gravity sanitary sewer service, utility easements outside of the right-of-way may be needed.


In conclusion, the annexation of Lazy Acres is in conformance with the Comprehensive Plan and staff recommends approval. This annexation meets the policies of the Plan, is contiguous with the city limits and is generally urban in character.

Specific questions on utility easements and costs are most appropriately handled when a request for an improvement district is proposed and approved. It is at this time that the engineering will be done to answer questions in regards to how any one house may be served.

MEMORANDUM

TO Planning Commission

DATE July 28, 1999

FROM Stephen Henrichsen, Planning 

SUBJECT Annexation #99011: Lazy Acres --- Additional Information

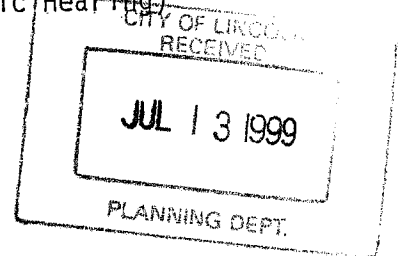
COPIES TO John Bradley  
Rick Peo, City Attorney  
Dennis Bartels, Public Works & Utilities

As requested by Planning Commission members, the Public Works & Utilities Department has prepared a rough estimate for extending the smaller sewer and water lines to serve this annexation area. They estimate it will cost \$5,000 to \$7,500 per lot for the sewer and the same range for the water. As was mentioned before, there are a lot of variables involved in the potential cost. Water and sewer improvements districts have not been requested at this time and are not a requirement of annexation. City staff will send a letter to the residents in this annexation with this cost estimate range.

This proposed annexation area is very similar to other annexations of acreage residential lots approved by the City Council since 1994. In the last ten annexations (see table below) proposed by the Planning Department and approved by the City Council, the Planning Commission recommended approval of all ten. In each case there was a similar process of open houses to explain the annexation proposal and city services were generally available. In addition, most areas did not have the smaller sewer or water lines in place in front of every house in the proposed annexation. In most every annexation, improvement districts have not been requested. Only in Mar-Ma-Ra-Lo has a sewer district been approved with a proposed district under review in the area of 10<sup>th</sup> & Superior (Annexation #95009.)

Annex File <u>Number</u>	<u>Location</u>	Planning Commission <u>Approval</u>	Dwelling <u>Units</u>
95010	66 <sup>th</sup> & Old Cheney Road	6-0	30
95009	14 <sup>th</sup> & Morton	5-2	8
95011	S. 56 <sup>th</sup> : Colonial Acres	6-0	10
97004	S. 84 <sup>th</sup> : Mar-Ma-Ra-Lo	5-0	45
97005	70 <sup>th</sup> & Hwy 2, Lee's Summit	5-0	10
97008	84 <sup>th</sup> & Pioneers	5-0	5
98006	West A & S. W. 27 <sup>th</sup>	7-0	12
98014	70 <sup>th</sup> & Pine Lake Road	6-0	4
99003	84 <sup>th</sup> & Old Cheney Road	8-0	6
<u>99010</u>	<u>56<sup>th</sup> &amp; Pine Lake Road</u>	<u>9-0</u>	<u>12</u>
			142

In conclusion, the annexation of Lazy Acres is in conformance with the Comprehensive Plan and staff recommends approval. This annexation meets the policies of the Plan, is contiguous with the city limits and is generally urban in character.



July 9, 1999

Barbara Hopkins, Chair  
Lincoln City-Lancaster County Planning Commission  
555 South 10th Street  
Lincoln, NE 68508

To all members of the City-County Planning Commission:

We would like the following letter read into the minutes of the hearing on July 14, 1999.

Re: Annexation of Lazy Acres

- (1) We would like to go on record stating that this annexation is an unfriendly annexation.
- (2) My husband and I tried to get questions answered by the city regarding services available. We found that the same question received different answers, depending on to whom we asked the question. For example:

**City utilities are available.** In a letter from Dennis Bartels, Public Works and Utilities Dept, dated May 17, 1999, he stated " the infrastructure and service issues regarding this property are adequately addressed. To serve individual lots, minor extensions of the sewer and water mains will be necessary."

At the present time, the cost per running foot for water and sewer is about \$30.00. The sewer is one half mile from our area, depending on whether or not the high school is built. A very conservative cost estimate runs about \$248,000.00 for Lazy Acres to be serviced. (It would mean a minimum of \$16,000.00 plus connecting costs per property owner, 90 per cent who are on limited retirement income.) The sewer would feed into a 48" main which feeds into a 24" main west of Lazy Acres. At a public hearing on June 2, we were told a S.I.D. could be formed, but the city attorney's office tells us that once annexation occurs, the S.I.D. is no longer an option .

**Fire Service.** During the past year, a fire occurred at one of the homes in Lazy Acres. It took fifteen minutes for the Lincoln Fire Department to arrive, and thirty-five minutes for the rural fire department. (The rural fire department was not our Southwest Fire Department .) There are three options that the Lincoln Fire Department might use once annexation occurs, but a specific answer could not be given because it was deemed too early to make a decision.

**Care of road in subdivision.** The city will not provide any service for the road except snow removal. The city attorney's office was asked the question

about liability should accidents occur after annexation. (Our road is adjacent to Densmore Sports Complex, a dead end road which is maintained by residents, yet it is considered a public road. Again, there was no answer. A second question was asked about utility placement--at the present time, placing utilities in the road is the most feasible. (Electric line poles would have to be removed to place utilities in the easement allowed between properties.) The attorney could not answer who would be responsible (1) for returning the road to usable condition, (2) who would pay for new gravel, nor (3) how the area would be accessed during the construction of the utilities.

If I were expanding a business, and was told (1) my taxes would go up from eight to twenty percent, (2) no services would be provided other than what I had at the present time, (3) taxes for any improvements would be paid for over a twenty year period, but the interest rate and the cost of improvements was not known, (4) questions couldn't be answered, or conflicting answers might be given, and (5) no specific time frame was available, since the comprehensive plans had been amended to meet more important needs, my accountants and lawyer would laugh me right out of their offices for wanting to expand. We who are being annexed face the same problem.


Rick Peo, from the city attorneys office, promised to find answers for us. However, he stated that he would not be able to work on it the rest of that week, then he would be going on vacation, and would probably be able to work on it after he came back from vacation. This meant no answers would be available before the public hearing.


We realize that annexation is inevitable. However, we would like to move that this annexation be delayed until definite answers can be given, especially in the area of road liability, sewage and water utilities. The answers we receive will determine what avenue we will take to protect ourselves before this annexation goes to city council.

We would also recommend some required reading for the City-County Planning Commission. An article "Will You Meet Me in the Middle?" by David Ochsner, Nebraska Magazine, Vol. 95, No. 2, published by the University of Nebraska-Lincoln will provide some valuable insight. It's subtitle is "Is the American Dream Turning Our Cities into Nightmares?"

We cannot be present for the public hearing July 14 due to previous commitments. Therefore, we would like a written copy of all testimony given, answers given by the members of this commission, and administrative action taken.

Sincerely,

  
Keith J. Herbster, P.E.  
1201 North Mockingbird Lane  
Lincoln, NE 68512-2352

  
Corene Herbster, CFCS



July 14,1999

Planning Commission Members  
City Council Members  
Lincoln, Nebraska,68508

Dear Members,

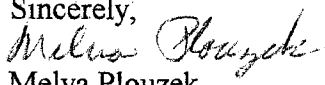
Having received various bits of information from several staff members and heard the delay dialogue in regard to the North 40 Golf Course and Campbell Nurseries I now request that the annexation for the Lazy Acres area be delayed until there is a need for services such as sewer, water,and road.

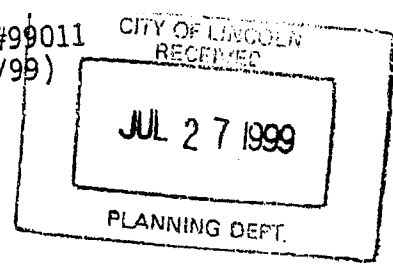
My main reason for asking for the delay is that I understand there is no need for city services and we do not want to pay the city to distribute gravel. Since the gravel is the only service we will likely receive and we consider gravel an inferior road surface when compared to the rocked surface we have maintained ourselves for over 30 years. We are also asking not to have the city graveling of our road. Having weeds mowed by the city is considerably higher in cost than doing your own hiring. I assume the same would be the case for city applied gravel. We also have a workable process for snow removal.

We are extremely concerned about cost. The talk of bringing both water and sewer a half mile distance for 14 homes to share that expense is a threat to our being able to keep our homes. With higher real estate taxes to follow.

Ironically we were not permitted to vote, as 3 mile zone residents on all the Bond Indebtedness Lincoln has accumulated yet we are being forced to pay the bill and have our area totally disrupted by Parks and Schools.It does not matter that it is spread over 20 years. It is still a cost we do not need or want at this time. Should we have to give up our homes of 30 years the new owners may feel differently. We have spent our lives to have our homes the new owners will probably be younger so they can spend their lives to do the same.

Please delay the annexation for Lazy Acres area until services are needed.

Sincerely,  
  
Melva Plouzek  
1111 So. Mockingbird Lane  
Lincoln, NE. 68512.



July 25, 1999

Barbara Hopkins, Chair  
Lincoln City-Lancaster County Planning Commission  
555 South 10th Street  
Lincoln, NE 68508

To all members of the City-County Planning Commission:

We would like the following letter shared with members of the Lancaster City-County Planning Commission before the July 28, 1999 meeting.

Re: Annexation of Lazy Acres

In the letter received from Stephen Henrichsen dated July 14, 1999, there was no major new information that we had not already received in the letter dated May 8, 1999.

In the case of sewer and water extensions, we do not feel that minor extensions are minor if the cost is a minimum of \$16,000 per household, based on today's costs.

Fire service would still have to be contracted out to a rural fire district unless a tanker truck is purchased by the city of Lincoln, or fire hydrants are in place.

Our snow removal on the road is accomplished before six o'clock in the morning at the present time. In talking to others who live on residential streets with in city limits, very few receive that type of service.

Our question about utilities was not answered. There are no utility easements except at the back of properties (electric poles are placed in the center of those easements). Lazy Acres is located on what is called the ridge. Because of this, not all houses can be serviced by the same gravity sanitary sewer service line, as drainage from houses in Lazy Acres goes in three different directions, due to the lay of the land. We realize that specifics are difficult to respond to, but answers we receive are very, very vague, and based on what, when, ifs and maybes.

Liability issues on the road were stated as "being the same as for any other gravel roads in the city", but we still do not have a specific answer as to what those liability issues are. In addition, we still have to pay for gravel to keep up the road.

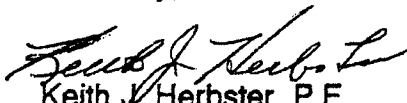
If you annex Lazy Acres only, you will not be annexing the two houses on South 14th Street as they are not part of the Lazy Acre Plat. Lazy M Acres, Mrs. Mechling's property, is also not a part of the Lazy Acres Plat.

Wilderness Park lies to the west of this area. Memorial Park cemetery lies to the east. Most of the residents feel that there will not be any advantages gained at this time by

annexation, except that taxes will go up and will go to the city rather than the county. The city will not furnish any basic services that we do not already have, but costs to home owners will be more. Even though we are already in the Lincoln School district, due to the reevaluation of our home (the second in two years) our taxes will go up about one thousand dollars a year. Most of the Lazy Acre homes are not in the Lincoln School district. This means their taxes will be approximately twenty percent higher if annexation occurs. (May 8 letter) When you add in the factor that ninety percent of the homeowners are retired and on limited incomes, this becomes a major financial problem for them.

It would seem prudent to delay annexation until the high school bond issue is decided, the decision is made about the final development of the old Gerbig property to the south, and services are in specific places rather than in the general area. Perhaps at that time there could be more specific answers given as to what costs would be. A minimum of today's costs of \$248,000 to provide sewer and water services, which must be paid by residents who do not want to be annexed, seems to be placing a burden on tax payers already burdened by taxes.

Sincerely,

  
Keith J. Herbster, P.E.  
1201 North Mockingbird Lane  
Lincoln, NE 68512-2352

  
Corene Herbster, CFCS

## ANNEXATION NO. 99011

### PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 16, 1999

Members present: Duvall, Wallace, Krieser, Wilson, Schwinn, Bayer, Steward, Bleed and Hopkins.

Planning staff recommendation: Approval.

Mr. Henrichsen requested that the Commission continue public hearing for two weeks until June 30, 1999, because there are two property owners that were not notified.

Mr. Henrichsen further explained that this property is on South 14<sup>th</sup> Street in the area of Mockingbird Lane North and Mockingbird Lane South. To the north of this property is Densmore Park, which is inside the City Limits; to the east is Lincoln Memorial Cemetery which is inside the City Limits; to the south is I-3 zoning and part of the Horizon Business Center; to the west is the Burlington Northern and Union Pacific Railroad tracks and then Wilderness Park.

With regard to the Lazy Acres subdivision, 14<sup>th</sup> Street is in the CIP for improvement; there is a water main in South 14<sup>th</sup> Street; sanitary sewer trunk line is along the railroad tracks to the west. The property is zoned R-1. Lazy Acres is generally one-acre in lot size. This property meets all the criteria for annexation.

Mr. Henrichsen also pointed out that as we have gone through the previous 16 annexations over the last four years, there have been various annexations where nearly 100% of the residents were opposed to annexation. In those cases, the Planning Commission still recommended approval if it met the criteria of the Comprehensive Plan, and the City Council approved those annexations. Opposition by the neighborhood is not one of the criteria.

With regard to infrastructure in the vicinity, Mr. Henrichsen stated that in this particular area, there is only the water main in 14<sup>th</sup> Street and sewer trunk line along the railroad tracks. There is also a water main in Pine Lake Road. Within the area, there are not any city water or sewer lines. The properties are all on well and septic.

### Opposition

1. **Keith Herbster**, 1201 No. Mockingbird Lane, testified in opposition. The sewer is at the railroad tracks, which is 1/4 mile from Lazy Acres. It costs \$30 a foot to get the sewer line in. The water line costs \$10.00/ft. It is at least 1/4 mile away.

He is concerned about the assessments. With regard to fire protection, there is no water out there except for their own wells. Who will pay the assessments being requested by the Fire Department? The property owners are not asking to be annexed. A few years ago, he was told he would not be asked to be annexed until utilities are in the development. As far as urban in character, there is a park to the north, to the east is a cemetery, to the south is rural, and to the west is Wilderness Park. To him, that is not urban in character. He believes it is a rural area. The infrastructure and service issues are not adequately addressed. 1/4 mile is not a minor extension in his opinion and is very costly. Why are we being annexed prior to the utilities being in place? This is a real concern and it is way too early to consider this annexation.

Mr. Herbster has lived here for 30 years.

Mr. Herbster got the letter about the June 2<sup>nd</sup> open house. He agreed that there has been talk about annexing the property for 4-5 years.

2. Melva Plouzek, 1111 South Mockingbird Lane, testified in opposition. The Lazy Acres property owners are self-sufficient with no problems with their wells or septic fields. There was mention made at the meeting that until they are within 300' they could continue with their wells and septic, and that their wells can be amended if there was a problem with the purity. There are covenants that have been in place since the subdivision was developed 30 years ago; part of the covenants are that the property will not be subdivided. Where would they stand on being able to continue to follow those covenants with annexation? The City will bring in the gravel and spread it, but then charge the owners for it. Their road is very usable and it costs her \$100 a year to maintain it. If the city is coming into this area, there is an existing easement for utilities, lights and cable. There are only 3 out of the 14 houses that might be a problem. If the owners are going to be responsible for paying for the gravel in order to maintain an unpaved road and the city comes in and tears it up like they tore up the approach, they will be in a bad situation. We all know it is inevitable but how it is done makes a big difference and the cost and expense to the property owners could be minimized. 90% of the residents are retired and on a set income. They need more information to work on in dollars and cents. They said at the meeting that there would not be any tax change and the next morning they received new valuations. Her property values appreciated \$20,000 two years ago, and another \$30,000 was just added. If she can get that market value, her property is up for sale. She wants to stay there because she built her home in terms of retirement. She does not want to start over at her age. These forced annexations are doing that to people. It would really help to have up-front knowledge of the dollars and cents. She wants to be sure they can continue the covenants and use the utilities that are laid out.

Bayer inquired about responsibility for the cost of extending the water and sewer.

Mr. Henrichsen stated that the property owner would have to pay for the sanitary sewer only if they hook up, and they do not have to hook up if more than 300' away. The property owners would pay the city property tax levy. Bayer wants to know who pays for the sewer from the railroad track to their homes. Mr. Henrichsen explained that if the property to the west is subdivided, the developer would pay to bring it to their property line. From that point on it is possible that it would be done by assessment district.

Bayer asked whether the city honors easements and covenants. Mr. Henrichsen assured that the easements and covenants would not be changed by annexation.

Bayer inquired about the city's responsibility for repairing the road appropriately. Mr. Henrichsen advised that the issue as far as the gravel is the same standard of any other gravel road in the city limits. The property owners pay for the gravel, but the city pays for the expense of grading and spreading.

Mr. Henrichsen further explained that water and sewer are not CIP facilities. The City cannot put utilities in the street unless they are inside the city limits. The mains are paid for by the City. A property owner does not pay for sewer and water through their property taxes. Dennis Bartels of Public Works explained that in this instance the sewer is at the west boundary on the west side of the tracks. The rest of it is generally benefitted property. The water is available on the east side in 14<sup>th</sup> Street.

Bleed suggested then, if you were living on the west side, you would have to pay for the full length of the water line from the west. Mr. Bartels responded stating that everybody in between there and where it is extended to would end up paying their fair share of the total cost of both water and sewer.

Steward pointed out that in deference to the homeowners' testimony, it is actually ½ mile to get the sewer from the tracks to the eastern edge of the property; and ½ mile to get the water from where it is on 14<sup>th</sup> Street. But, Mr. Bartels clarified that all the property between is assessable.

Mr. Henrichsen clarified that the sewer line that would be serving these lots is the sewer line that is not necessary to serve the cemetery so it is a sewer line that would benefit them. If they do not request the assessment district, then their septs could stay in place. The water service could be phased.

With regard to the easements, Mr. Bartels does not know what easements are in place. Traditionally, the sewer and water go in the streets. If we have to run outside the street, we would try to utilize existing easements.

Bleed asked what the city is doing to try to provide the cost estimates. Mr. Bartels stated that previously, Public Works has done some preliminary engineering

to show in general how the property could be served with some cost estimating. This could be done before the annexation gets to the City Council. At this point, it would only be an estimate. Assessment districts are based on the costs of the actual project. Bleed thinks it would be helpful for the homeowners to have some idea of the costs.

Bleed moved to defer two weeks, with continued public hearing and administrative action on June 30, 1999, seconded by Wilson and carried 9-0: Duvall, Wallace, Krieser, Wilson, Schwinn, Bayer, Steward, Bleed and Hopkins voting 'yes'.

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Continued Public Hearing was not held on June 30, 1999, due to lack of quorum.

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**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** July 14, 1999

Members present: Wallace, Krieser, Duvall, Steward, Bleed and Bayer; Hopkins, Wilson and Schwinn absent.

Steve Henrichsen of Planning staff submitted a letter from Keith Herbster, 1201 N. Mockingbird Lane (Lazy Acres), in opposition. This is an unfriendly annexation and the Lazy Acres property owners still have several questions about the annexation, utilities, cost of utilities, etc.

Mr. Henrichsen also submitted a memo from the Planning Department addressing the questions raised in the Herbster letter. The City utilities are available, but there are too many variables for Public Works to be able to prepare an estimate of the costs; if sewer and water are requested in the future, the city could start the engineering to compute the cost details. The City is not proposing any sewer or water improvement districts at this time. With regard to fire protection, in the incident referred to, the Lincoln Fire Dept. was not called for 10 minutes--the rural fire district was called first; the Lincoln Fire Dept. responded 5 minutes and 20 seconds after they were called. Mr. Henrichsen suggested that the Lincoln Fire Dept. will provide a tremendous improvement in the fire service these residents will receive.

With regard to roads, Mr. Henrichsen advised that once the property is annexed, the city is liable to keep the roads in reasonable safe condition. Staff is still recommending approval of this annexation.

Mr. Henrichsen also submitted a letter from Melva Plouzek suggesting that this annexation be delayed similar to the way the North 40 Golf Course and Campbell Nursery annexations were delayed.

Wallace believes there are yet some unanswered questions and he asked whether there has been any dialogue from the Law Department in regard to the Herbster letter. Mr. Henrichsen responded that a letter was sent to property owners in May; the staff held a separate open house on June 2<sup>nd</sup> and attempted to answer as many of the questions as possible. Sewer and road improvements are something that have to be addressed at a future date as far as the costs. When you have a gravel road, the city is liable to maintain that road, but the residents pay for the cost of the gravel.

Steward asked staff to explain the plans for the areas in and around this property. Mr. Henrichsen stated that to the north of Lazy Acres is Densmore Park, where the future City Library and YMCA will be building a library and recreational facility; to the south in the I-3 area which is owned by LPS for a future high school; and the Horizon Business Center is even further south of the high school site; to the east is Lincoln Memorial Park Cemetery. All of the area to north, east and south is inside the city limits and in the process of becoming further urban. Steward wondered why it wouldn't be appropriate to defer this annexation until the infrastructure decisions on the two adjacent properties are made. Mr. Henrichsen's response was, "because that time may never come in this case". In regard to providing water and sewer to the adjacent properties, there is not any reason at this point to run utilities through this property and a district may never be requested. When the major sewer trunk lines and water mains are in place as in this area, it is appropriate to annex the property. It could be years or decades before requests for sewer or water districts come forward. Most of these residents do not want the water and sewer districts and are happy with their own wells and septic systems. The city is not requesting those water and sewer districts.

Then if the basic infrastructure is in place, Steward does not understand why it is not possible to give impact numbers at this time. Mr. Henrichsen explained that the trunk line is available along the railroad tracks to the west; the water main is to the east. Estimating the water service costs might be easier, but a lot of it has to do with the undeveloped area to the west with only one house on it. A lot of the costs of the sewer and water depend on whether or not that property develops. If it does, the developer may pick up quite a bit of the sewer and water costs. As the YMCA develops to the north, that may bring sewer main to Mockingbird Lane North; as the high school develops, depending on where they bring the main in, that would have a big impact on the sewer cost as well. In general, the staff has tried to provide estimates in the past, but there are enough variables in this particular area, that it would be hard to give those cost estimates.

Bleed asked whether the staff has explained the sewer and water district process to the owners. Mr. Henrichsen stated that to be an issue that was discussed at the open house. Certainly, on the sewer and water districts, they can be requested by a single individual that might affect numerous property owners. An assessment district calls for a separate public hearing before the City Council, who decides whether to approve it. The later subsequent steps would address the costs and the cost-sharing. The assessments would be paid over a 20-year period.



## Opposition

1. **Melva Plouzek**, testified in opposition, and read her letter into the record, referring to the previous delays of the North 40 Golf Course and the Campbell property annexations. She is requesting a similar delay; there is no need for the city services and the property owners do not want to pay the city to deliver gravel; they do not want the city to gravel the road; having weeds mowed by the City is higher in cost than private hiring; they also have a workable process for snow removal; the costs are an extreme concern to the 14 homes that would have to share the expense.

It was Ms. Plouzek who had the fire previously referred to and she put the fire out. The Fire Marshall said they could not do anything for her because the fire hydrant was ½ mile away. Had she not been home, her property would have been leveled. Fire protection with one fire hydrant ½ mile away is of no use.

## Response by the Applicant

With regard to fire protection, Mr. Henrichsen explained that each truck will attempt to carry a certain amount of water; they would also then try to string lines out from the 14<sup>th</sup> Street hydrants back into the subdivision. At this time, the hydrants would be in South 14<sup>th</sup> Street. The Lincoln Fire Dept. felt that through the service they carry on the trucks plus the mutual aid agreements with the rural fire districts, they could serve this area adequately and they would have much faster response time than the rural fire district. Once annexed, the Lincoln Fire and Public Works Departments may add additional hydrants to the mains on arterial streets. If annexed today with a fire tomorrow, they would run the water from fire hydrants along 14<sup>th</sup> Street. He does not know the exact location.

Steward noted that this is probably the second or third area of acreages in a short period of time that is being surrounded by other development. He believes the Commission is going to see these coming more and more frequently because of circumstances where acreages are and where the city is moving. He wonders if staff has considered moving further out and encompassing more acreage developments. It appears here that we have a different situation than some normal annexations which are at the edge and contiguous, where older property owners, if annexed now, lose their leverage to influence any cost-sharing that may take place in adjacent developments that they have had nothing to do with and did not want in the first place. Where are we headed? Mr. Henrichsen noted that in the past five years, since 1994, when we started the annexation studies, we have had about 15 annexations initiated by the city which were opposed by the residents and most of those areas were acreage areas. A lot of the issues come down to the residents being on wells and septs and they do not want city services. For most of those areas, there have not been requests to put in water and sewer. Those water and sewer costs may be many years off in the future. They would be handled in the same manner as other areas of the city. Those assessments would be handled through a separate public hearing process and at that

time the city can address the fairness of the cost-sharing. The improvement district process is the best place to address those costs. The city's annexation policy talks about services being generally available in the area, which they are in this case. The city is completely surrounding this area. With annexation, these properties will be treated the same as other citizens of Lincoln. Mr. Henrichsen believes we are showing some sensitivity because we are not requiring a lot of things such as paving, etc., that are found in other urban areas.

Bleed is not sure she understands what kind of leverage one would have. Steward believes this discussion maybe should occur at a different time because it is more of a policy kind of strategy. He believes we are getting into unusual circumstances, i.e. actions that the City/County Planning Commission has taken to approve in the past, and then new development occurs around them that does not account for their action or their activity; and whether or not they are being penalized as a result of other plans that are being made throughout the city.

Bayer suggested this be discussed at a future Planning Commission retreat.

Bayer commented that looking at this annexation, the justification is simply that it is surrounded on 3 sides and in conformance with the Comprehensive Plan. The pro to the residents is fire protection, and the con is increased taxes. These are the first most immediate impacts to the neighbors. Mr. Henrichsen agreed that there is certainly some con to uncertainty as to the potential for improvements. And with other areas, the minute someone's well fails and they are on a one-acre lot, they will find it difficult to put in a new well and may be here asking for annexation in order to solve their concern.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

**July 14, 1999**

Bleed moved approval, seconded by Krieser.

Bleed commented that this is a very difficult decision to make and Steward is correct that it is a situation that we will be facing over and over again in the next few years. We need to review the policy and attempt to alleviate some of the uncertainties and concerns of the homeowners. At the same time, we do have a policy in the Comprehensive Plan; this is clearly an area that is within the built environment in the city; there are some major structures going up with the school, park and library. We do not want to have a Swiss Cheese city where there are holes that are not annexed. Not requiring hookup to sewer and water does provides some time. The uncertainty is there as to when the assessment district might be requested and formed. She believes it makes sense to annex the area, although she does have sympathy for the homeowners in the area as far as the uncertainties with the costs, etc.

Wallace agreed. We all knew this was coming and it's here. He cautioned that we need to be aware that we have some established residents who have some income restraints. We need to be able to give them a clear picture up front so that the residents can plan how to meet the obligation. He is hopeful that some language can be incorporated to address the issue of giving the property owners some range of costs.

Steward will vote against the motion out of principle. He continues to speak about the difficult circumstance of planning acreages within the county; if we are going to plan them we have the responsibility to the properties to give them as much confidence as others within the plan context; if it does happen outside of their control and they become surrounded by some development, we need to be able to give them some real costs and the exact alternatives. Until we get a policy that is more clear he will vote against this kind of action.

Motion to approve failed 3-3: Wallace, Krieser and Bleed voting 'yes'; Duvall, Steward and Bayer voting 'no'; Hopkins, Wilson and Schwinn absent.

This application is held over for administrative action on July 28, 1999. Public hearing has been closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

July 28, 1999

Members present: Wilson, Schwinn, Wallace, Krieser, Duvall, Steward and Bayer; Bleed and Hopkins absent.

Planning staff recommendation: Approval.

Steve Henrichsen of Planning staff submitted a letter from Keith Herbster, 1201 No. Mockingbird Lane, in opposition.

Mr. Henrichsen advised that this proposal annexes Lazy Acres and three other houses and undeveloped property.

Mr. Henrichsen submitted a memorandum from the Planning Department containing a cost estimate for the water and sewer. It has been determined that the costs per lot will be \$5,000 to \$7,500 for the sewer, and the same amount per lot for water line, based upon information available today. There are a lot of factors that could adjust those estimates based upon adjacent developments. Water and sewer improvement districts are not requested at this time and are not reviewed by the Planning Commission.

The memorandum also listed some of the other acreage annexations that have occurred since 1994, the last 10 of which involved acreage residential lots, all 10 being approved by the City Council and all 10 were recommended for approval by the Planning Commission. These were very similar in characteristics. The property is

zoned R-1, which is urban residential. It meets all of the policies and criteria of the Comprehensive Plan.

Bayer recalled that the Planning Commission just denied an annexation of acreage lots south of Pine Lake. Mr. Henrichsen advised that the Commission recommended that that annexation be placed on pending until the Campbell property comes forward. The annexation of two residential lots at 93<sup>rd</sup> & Old Cheney has not been forwarded to the City Council yet.

Steward expressed appreciation for the additional information on costs, which should be a matter of information to anyone caught in this circumstance. He also appreciates the additional information on other annexations. However, he would like to hear the staff's opinion as to whether we are entering territory that requires a more specific thought and approach as we are bumping against more and more of these. The alternative that we keep saying separates Lincoln from other municipalities is the ability to resist SID's and not get caught in the bind of assuming debt, etc. Steward is concerned that we don't find ourselves by accident having to deal with that issue. On the other hand, he is concerned that we have a more deliberate and more fair way of dealing with property owners on acreages that they thought were never going to be a part of the city. Mr. Henrichsen observed that it is well known that the city staff would not support SID's. To the particulars of acreage development, over the past four years, the staff has tried to improve the process of annexation in terms of having open houses, trying to prepare information in advance, and preparing cost estimates. The staff has worked with LPS to try to address issues in regard to the Waverly bond issue and have made provisions to reduce acreage owners' costs in that regard. The city has not changed the zoning with any of these areas. There are things that will cause pressures on these acreage lots such as sewer and water district assessments. At the time the sewer and water districts do come forward, that is the best time to address those costs. Mr. Henrichsen believes the staff can certainly do more to improve the process, but he also believes that at this point we have a good process involved with acreages. A lot of these areas would like to be outside the city limits, but the Comprehensive Plan appropriately points out that we cannot jog in and out of these areas.

Steward believes there is another dimension of this and that is, doing a better job with the Comprehensive Plan on acreage designation to begin with. Mr. Henrichsen agreed.

Schwinn moved approval, seconded by Wilson.

Schwinn commented that the Comprehensive Plan talks about one community and contiguous growth, and if there was ever a place where those two things exist, this is the one spot that he would say qualifies more than any of the others.

Motion for approval carried 7-0: Wilson, Schwinn, Wallace, Krieser, Duvall, Steward and Bayer voting 'yes'; Bleed and Hopkins absent.